

Message Text

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TAGS: ENRG

SUBJECT: PROPOSED ALASKAN NATURAL GAS TRANSPORTATION ACT
OF 1976

REF: OTTAWA 0832

1. DRAFT TEXT OF ADMINISTRATION BILL TO EXPEDITE DECISION
ON ALASKAN NATURAL GAS TRANSPORTATION SYSTEM IS CURRENTLY
BEING CONSIDERED WITHIN THE EXECUTIVE BRANCH AND HAS NOT
YET BEEN SUBMITTED TO CONGRESS. OMB CAUTIONS AGAINST
DISSEMINATION TO FOREIGN GOVERNMENTS PRIOR TO TRANSMITTAL
TO THE HILL.

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2. SUMMARIZED BELOW ARE THE PRINCIPAL PROVISIONS OF THE

PROPOSED LEGISLATION. TEXT OF DRAFT BILL SENT VIA
COMMERCIAL AIRMAIL TO BUCHANAN.

3. PURPOSE: ACT WOULD EXPEDITE SELECTION AND CONSTRUCTION
OF A NATURAL GAS PIPELINE SYSTEM FOR DELIVERY OF ALASKAN
NATURAL GAS TO THE LOWER 48 STATES.

4. FEDERAL POWER COMMISSION REVIEW: FPC WOULD BE FOR-
BIDDEN TO ISSUE A CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY UNDER THE NATURAL GAS ACT (15 USC) AND WOULD

BE REQUIRED TO COMPLETE ITS REVIEW OF THE PENDING
APPLICATIONS FOR AN ALASKAN NATURAL GAS DELIVERY SYSTEM
AND TO SUBMIT A REPORT TO THE PRESIDENT NO LATER THAN
FEBRUARY 1, 1977. FPC REPORT WOULD INCLUDE: ESTIMATES
OF CAPITAL AND OPERATING COSTS; ANALYSIS OF CONSTRUCTION
SCHEDULES; EXTENT OF RESERVES; ANALYSIS OF ENVIRONMENTAL
CONSIDERATIONS; FINANCING CAPABILITIES; SAFETY IN DESIGN
AND OPERATION; AND, ANTICIPATED LONG AND SHORT TERM
TRANSPORTATION TARIFFS. FPC WOULD IDENTIFY IN LIGHT OF
ITS NORMAL STATUTORY RESPONSIBILITIES WHICH PROPOSAL
WOULD BETTER SERVE THE PUBLIC INTEREST

5. OTHER AGENCY REPORTS: FEA, EPA, TRANSPORTATION,
STATE, DEFENSE, INTERIOR AND TREASURY WOULD REPORT ON
AREAS WITHIN THEIR RESPECTIVE PURVIEW. STATE ON FOREIGN
POLICY ASPECTS INCLUDING EVALUATION OF THE STATUS OF
CANADIAN APPROVALS AND PLANS.

6. PRESIDENTIAL DECISION: PRESIDENT WOULD SELECT ROUTE
ON THE BASIS OF NATIONAL INTEREST BY APRIL 1, 1977 AND
WOULD SUBMIT HIS DECISION IMMEDIATELY TO HOUSE AND
SENATE. -

7. CONGRESSIONAL REVIEW: PRESIDENTIAL DECISION WOULD
BECOME FINAL WITHIN 60 DAYS OF SUBMISSION TO CONGRESS
UNLESS CONGRESS BY JOINT RESOLUTION DISAPPROVES. PRESIDENT
COULD RESUBMIT SAME OR NEW DECISION WITHIN 60 DAYS OF
DISAPPROVAL. SECOND DISAPPROVAL BY CONGRESS WOULD PERMIT
FPC DECISION TO BE IMPLEMENTED UNDER NATURAL GAS ACT WITH
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EXPEDITED ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW
PROVISIONS OF THE DRAFT BILL APPLYING TO THE FPC DECISION.

8. CERTIFICATION: IF CONGRESS APPROVES PRESIDENT'S
DECISION, FPC WOULD ISSUE ALL CERTIFICATES, PERMITS AND
AUTHORIZATIONS WITHIN 30 DAYS AFTER A PRESIDENTIAL DECISION
BECOMES FINAL.

9. OTHER ADMINISTRATIVE AUTHORIZATIONS: INTERIOR, TRANSPORTATION AND OTHER RELEVANT AGENCIES WOULD ISSUE AND TAKE ALL NECESSARY ACTION TO PERMIT APPROVED PROJECT TO GET UNDERWAY.

10. JUDICIAL REVIEW: EXECUTIVE BRANCH ACTIONS TAKEN UNDER THE DRAFT ACT RELATING TO THE CONSTRUCTION AND COMPLETION OF A NATURAL GAS PIPELINE FOR ALASKAN NATURAL GAS WOULD PROCEED WITHOUT FURTHER REVIEW UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969. THUS ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY BY THE FPC WOULD NOT BE SUBJECT TO JUDICIAL REVIEW UNDER ANY

LAW EXCEPT THAT WITHIN 60 DAYS THE CONSTITUTIONAL VALIDITY OF THIS SECTION OF THE BILL COULD BE CHALLENGED. CLAIMS COULD BE FILED ONLY IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA. THAT COURT WOULD GIVE FIRST PRIORITY TO THE CLAIM, COULD NOT GRANT INJUNCTIVE RELIEF, AND WOULD RENDER A FINAL JUDGEMENT. THERE WOULD BE NO REVIEW OF THE DISTRICT COURT JUDGMENT EXCEPT BY DIRECT APPEAL TO THE SUPREME COURT. KISSINGER

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